

Application No.: 10/026,171
Response dated: March 26, 2004
Reply to Office Action of January 27, 2004

REMARKS

Reconsideration of the present claims, in light of the above claim clarifications and the Remarks which follow, is respectfully requested.

Applicants' Agent thanks the Examiner for the Interview granted March 25, 2004, which took place telephonically.

Claims now before the Examiner are 1-12, and 13-22.

The numbering in this response will follow that of the Examiner's Action.

During the Interview, amendment to claim 6 was discussed to add after step b) a "recovery" step. No support can be found for that language. there is language that indicates removing a dry, free-flowing powder, but Applicants believe that language inappropriate for that claim, and further believe that the arguments below clearly distinguish all the present claims from the cited documents.

1. No response necessary.

Rejections Under 35 USC § 112, second paragraph

2. *Claims 4, 5, 14 and 21 stand rejected under 35 USC § 112, Second Paragraph*

Claims 4, 5, 14 and 21, stand Rejected as indefinite. During the Interview, it was agreed that in claim 4 a different temperature range would be used. Applicants have support for the new range in the old range. In claim 5, it was agreed that removing the phrase "room temperature" would address the Examiner's rejection.

Among the differences between claims 14 and 21 is a different claimed temperature range (60°C to 125°C in claim 14, and 60°C to 110°C in claim 21).

Withdrawal of the Rejections is respectfully requested.

3. No response necessary.

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Rejection Under 35 USC § 102

4. *Claims 1-4, 6, 7, 14, 15, and 18-20 stand Rejected under 35 USC § 102(b) as Anticipated by WO 96/35729 (Razavi I).*

Razavi I suggests "...a) reacting a metallocene with an alumoxane at a temperature comprised between 15 and 50°C..." abstract; page 2, lines 31-32; page 3, lines 22-23 and Examples at page 10, line 19. Razavi I does not disclose heating the metallocene catalyst compound, as in the present claims, to a temperature of from 75°C - 125°C (claim 1); heating a metallocene and activator to 60-125°C (claims 6, 8, & 14); or heating the metallocene catalyst compound to a temperature from 75 to 100°C (claim 3); heating a metallocene and activator to 75 to 100°C (claims 7, 9, 20 & 22); heating the metallocene catalyst compound to a temperature of from 60-110°C (claim 10); heating a metallocene and activator to 60-110°C (claims 18 & 21), and to 60 to 100°C (claim 19).

Absent such disclosure, the present claims are not Anticipated by Razavi I.

Accordingly, withdrawal of the Rejection is respectfully requested.

Rejections Under 35 USC § 103

5. *Claims 1-12, 14 and 18-22 stand Rejected under 35 USC § 103(a) as Obvious over Razavi I.*

As noted above, Razavi discloses only heating the metallocene and activator to between 15°C and 50°C, and all Razavi examples show combination of metallocene and activator at 25°C. This is contrasted above with the present claim language. Further, Applicants demonstrate in their examples the unexpected effect of this difference in temperature ranges. In Table 1A a mixing temperature of 25°C for examples 2 & 3 (the Razavi mixing temperature), results in similar activity as the higher mixing temperature of example 1 (68°C), but substantially greater fouling (fouling index of 1.0 and 2.0 for examples 2 and 3 respectively, versus a fouling index of 0 for example 1 at a higher temperature). In a different set of examples, in Table 1B, higher temperature mixing (i.e. 85°C of example 6) results in a fouling index of 0.5, versus a fouling index of 2 for

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example 4, mixed at 65°C. Moving to Table 2, example 9 mixed at 85°C gives an activity of 2625, 43% higher than example 10, mixed at 25°C (activity of 1830). So the unexpected results of heating the metallocene/activator to a higher temperature than disclosed or exemplified by Razavi I are either higher activity or lower fouling index.

Absent a disclosure or suggestion in Razavi I to the higher (claimed) temperatures, Razavi I does not render the present claims Obvious.

Accordingly, withdrawal of the Rejection is respectfully requested.

6. *Claims 1-12 and 14-22 stand Rejected under 35 USC § 103(a) as Obvious over Razavi I in view of US 5,914,289 (Razavi II).*

Razavi I is discussed above.

Razavi II neither discloses or suggests the claimed temperature ranges for the reaction of the metallocene compound or the metallocene-activator compound. Razavi II suggests the same temperatures for reacting the metallocene with an aluminoxane as Razavi I, (specifically, between 15 and 50°C) (note column 4, lines 7-9 and column 4, lines 31-34 of Razavi II). Therefore Razavi II adds nothing to Razavi I.

Absent a disclosure or suggestion to the currently claim reaction temperatures, the combination does not render the present claims Obvious.

Accordingly, withdrawal of the Rejection is respectfully requested.

7. - 9. No response necessary.

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All of the Examiner's Rejections have been addressed.

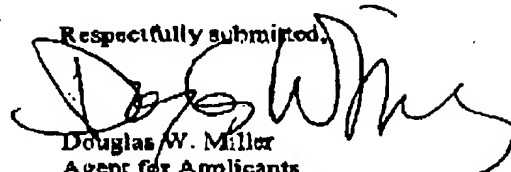
The claims are in condition for allowance.

Note is made that the correspondence should be sent to:

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Respectfully submitted,

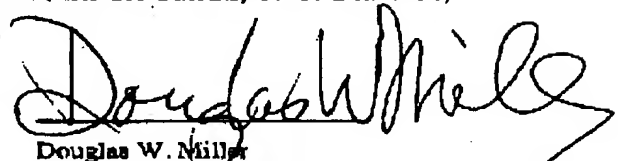


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